The Examiner has made currently pending claims 44-69 subject to restriction requirements. The Examiner requires restriction under 35 USC §121 and §372 to one of the following groups of inventions:

I. Claims 44-52 drawn to a method, solid phase and test kit for the detection of a homogeneous or heterogeneous analyte population

II. Claims 53-69 drawn to a method, solid phase and test kit for simultaneous determination of an antigen and antibody in a sample

Election of Invention for Examination

Applicants elect the invention of Group I, claims 44-52 drawn to a method, solid phase and test kit for the detection of a homogeneous or heterogeneous analyte population, for prosecution at this time, with traverse.

Traversal of Restriction Requirement

The Examiner argues that the inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features because the two groups have different functions and purposes. While Group I detects an analyte, Group II simultaneously determines an antigen and antibody. As such, the two groups are distinct.

Applicants request the Examiner's reconsideration of his classification of claims 53-69 (Group II) as an invention distinct from Group I (claims 44-52), and Applicants argue for the inclusion of claims 53-69 with those of Group I.

Applicants argue that requirement for restriction is improper and that the "method, solid phase and test kit for the detection of..." of Group I are not patentably distinct from the "method, solid phase and test kit for simultaneous determination of..." of Group II. It is Applicants' position that the claims of both Group I and Group II do have corresponding technical features and therefore corresponding functions and purposes.

The invention of Group I relates to a method, solid phase and test kit for the detection of a homogeneous or heterogeneous analyte population. The invention of Group II relates to a method, solid phase and test kit for the determination of an antigen and antibody, i.e., a heterogeneous population. The Examiner is requested to please refer to dependent claim 45 (Group I) reciting "wherein the analyte is selected from the group consisting of .... a mixture of antigens and antibodies."

Both Groups I and II incorporate corresponding technical features, e.g., a solid phase; two spatially separate test areas, each comprising a receptor; a detection reagent comprising a receptor and a signal generating group; the step of contacting the sample with the solid phase and detection reagent; and the step of determining the presence or amount of analyte by measuring the signal from the signal generating group.

The claims of Groups I and II are unpatentable over each other, and their difference is mainly one of scope.

For the reasons set forth above, Applicants argue that the claims of Group I and Group II are linked so as to form a single general inventive concept and that they comprise the same or corresponding technical features. Applicants respectfully request the Examiner's reconsideration and withdrawal of his restriction requirement.

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The Examiner is hereby authorized to charge any fees associated with this Amendment to Deposit Account No. 50-0877. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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